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LESHAWN LAWSON

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OCT 15 2015

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA, CR 15-00119 PJH
12 Plaintiff,
13 v.
14 LESHAWN LAWSON,
15 Defendant.
16 /
17 TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO THE UNITED
STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA:
18 PLEASE TAKE NOTICE that on December 9, 2015, at 1:30 p.m.
19 or a soon thereafter as the matter may be heard before this
20 Court, Defendant LESHAWN LAWSON, by and through counsel, will
21 and hereby does move this Court for its order excluding all
22 evidence of statements made by him to law enforcement after his
23 arrest on February 6, 2015, and the fruits thereof.
24 Date: December 9, 2015
Time: 1:30 P.M.
Judge Hamilton

25
26
27
28 PLEASE TAKE NOTICE that on December 9, 2015, at 1:30 p.m.
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Court, Defendant LESHAWN LAWSON, by and through counsel, will
and hereby does move this Court for its order excluding all
evidence of statements made by him to law enforcement after his
arrest on February 6, 2015, and the fruits thereof.

This motion is made on the grounds that the statements were
obtained in violation of Defendant's privilege against self-
incrimination and the right to assistance of counsel, as
guaranteed by the Fifth and Sixth Amendments to the United
States Constitution.

Defendant hereby requests that the Court conduct an evidentiary hearing as necessary to resolve the issues raised by this motion and that the Court order production of all witness statements pursuant to Rule 26.2 and Rule 12(I) of the Federal Rules of Criminal Procedure.

6 Dated: October 14, 2015

/s/ J. TONY SERRA
J. TONY SERRA
BRIAN GREGORY
Attorneys for Defendant
LESHAWN LAWSON

STATEMENT OF FACTS

2 On February 6, 2015, Leshawn Lawson was arrested in
3 Livermore, CA, as the result of a traffic stop and warrantless
4 search of his vehicle and person. Livermore Police officers and
5 agents from the Drug Enforcement Agency (DEA) are believed to
6 have taken part in the arrest. No audio or video recordings of
7 the arrest exist, with the exception of a Livermore Police CAD
8 Dispatch tape.

At approximately 9:30 a.m., Lawson, an African-American male, was traveling westbound in the left lane of interstate 580 in a white 2006 Bentley Flying Spur. DEA agents had previously installed a GPS tracking device on Lawson's vehicle, and they were maintaining "mobile surveillance" on him.

14 Livermore Police officer Matthew Williams entered the
15 freeway behind Lawson from Northfront Road, and observed
16 Lawson's vehicle "without any license plate," and traveling
17 faster than the flow of traffic. Williams paced the vehicle at
18 approximately 75 mph in a 55 mph zone before pulling behind the
19 vehicle and pulling it over. Williams claimed that he could not
20 see any temporary registration because of the dark tint on the
21 windows, but the report-of-sale paperwork permitting lawful
22 operation of the vehicle was affixed to the lower-right corner
23 of the front windshield, per California Vehicle Code § 4456.
24 Williams radioed the stop in to dispatch as a "no plate."

When Williams first contacted Lawson, he immediately ordered Lawson to hand over his keys and to roll down all of his windows. Lawson complied. Williams called in a probation check, and dispatch reported that Lawson was not on probation. While

1 Williams ran the probation check, Livermore Police Detective
 2 Albert Grejada arrived on scene.

3 Williams then began extensive questioning of Lawson.
 4 Williams asked about where he was coming from. Lawson replied
 5 that he was returning to Hayward from Los Angeles. Williams
 6 asked what Lawson was doing in Los Angeles, and Lawson replied
 7 that he worked as an entertainer in the clubs in L.A. and as an
 8 iron worker in the Bay Area. Williams asked Lawson how long he
 9 was in L.A., and Lawson replied that he was there for three
 10 weeks. After looking around in the interior of the vehicle,
 11 Williams told Lawson that he did not see any luggage. Lawson
 12 point to a duffle bag in the back seat and said that he did not
 13 take much with him. Williams commented on the Bentley, noting
 14 that it was very clean and that Lawson must have paid a fortune
 15 for it. Williams asked Lawson if he was on probation or parole,
 16 and Lawson replied that he had not been in trouble in quite some
 17 time. Williams asked if there was anything illegal in the
 18 vehicle, and Lawson replied that he did not have anything
 19 illegal on him.

20 Williams then directed Lawson to exit the vehicle and
 21 Lawson complied. Williams searched Lawson and located a
 22 substantial amount of cash Lawson's pockets. He then directed
 23 Lawson to sit on the curb. Lawson complied. Williams and Grejada
 24 then searched the interior of the vehicle and began taking
 25 photos of the car. Williams searched the duffle bag in the back
 26 seat and located clothes, a camera, and a large amount of cash.
 27 At this point, approximately 20 minutes had elapsed from the
 28 time of the stop.

1 Williams then asked Lawson how to open the trunk. Lawson
 2 stated that there might be a button in the glove box. Williams
 3 instead used Lawson's keys to open the trunk. In the trunk,
 4 Williams located a second duffle bag. Williams opened the bag
 5 and located three bundles wrapped in green saran wrap. Williams
 6 asked how much there was and Lawson replied 10 kilos. Williams
 7 then asked what it was and Lawson stated cocaine. Williams asked
 8 where it came from and Lawson stated L.A. Lawson was not
 9 Mirandized at any point during his road-side detention.

10 DEA responded to the scene and Williams transported Lawson
 11 to the Livermore police station. While at the police station,
 12 Williams continued to interact with Lawson. Lawson inquired
 13 about his car and Williams reported that it had been impounded.¹
 14 Lawson inquired about bail and Williams replied that bail would
 15 be set once Lawson was transferred to Santa Rita Jail. Lawson
 16 then stated that he did not have any of his phone numbers or any
 17 one to call because his phone numbers were all in his phone.
 18 Williams replied by saying "before we get into your phone and
 19 all that, let me read you something," and then read Lawson his
 20 Miranda rights.

21 After reading Lawson his rights, Williams asked Lawson
 22 "Having those rights in mind, do you wish to talk about that?"
 23 When Lawson asked, "Talk about what?" Williams answered, "Your
 24 cell phone and the incident and all that." Lawson stated,
 25 "There's nothing to talk about." Williams then said, "Well, your

26
 27 ¹The following summary of facts is taken from a recorded
 28 interrogation of Lawson by Williams discovered to the defense on
 a disc labeled "LAWSON-0292." The disc also contained 14 photos,
 sequentially labeled "F2615493" through "F2615506." The recorded
 interrogation is labeled "F2615508."

1 cell phone was in the car, and that's probably going to be taken
 2 as evidence." Then, without receiving any clear waiver from
 3 Lawson, Williams launched into investigative questioning.

4 Williams first asked, "So, you were coming from L.A.,
 5 correct?" Lawson did not reply. Williams said, "Yes?" and Lawson
 6 replied, "Yes." Williams asked, "How long were you in L.A. for?"
 7 Lawson replied, "A couple of weeks." Williams asked, "You were
 8 going back to Hayward?" Lawson replied, "I was going to San
 9 Francisco." Williams then asked, "You live in Hayward, though?"
 10 Lawson replied that he lived in L.A. Williams stated, "You were
 11 going back and forth. What do you do for a living in L.A.?"
 12 Lawson replied, "I don't. I work for a living up here. Down
 13 there I work as an entertainer. My L.A. job is entertaining."
 14 Williams asked, "As far as?" and Lawson replied, "I book shows,
 15 the club thing." Williams then asks, "As far as here, you said
 16 you were an iron worker?" Lawson said, "Yeah, in San Francisco."
 17 Williams asked, "How long have you been doing that?" Lawson
 18 replied, "since '01." Williams then asked, "Have you done any
 19 state time yet, for anything?" Lawson did not reply.

20 Williams then began asking about Lawson about the case.
 21 Williams asked, "So, how much cash did you have in your car? In
 22 your duffle bag in the front seat? Do you know?" Lawson replied,
 23 "It was about 20, naw, about 15." Williams asked if the money
 24 was from Lawson's employment, and Lawson replied that it was
 25 from a show he had done the night before. Williams asked what
 26 company Lawson worked for, and Lawson replied Froggle, LLC.

27 Williams then said, "you realize you were speeding on the
 28 freeway, right? In a 55 miles-per-hour zone, the construction

1 zone." Lawson replied, "I don't know if I was speeding or not.
 2 You say I was speeding, but I was just going with the flow of
 3 traffic. I wasn't speeding. That's why I asked you at the top."
 4 Williams replied, "Because I was behind you?" Lawson said, "No,
 5 I saw you, when I came down I saw you get on the freeway, and
 6 when you got behind the truck." Lawson continued, "I wasn't even
 7 speeding, honestly. I was going with the flow of traffic because
 8 there was cars in front of me. I wasn't by myself, I was in a
 9 bunch of cars. I thought you were getting on the freeway to get
 10 to another location, till you came and got me."

11 Williams then asked, "As far as, talking at the window, you
 12 gave me consent to get into the car." Lawson replied, "Right, I
 13 don't need this. I don't even, I'm not even, right now I'm so
 14 pissed off right now, I don't even feel like going through none
 15 of this right now. You know, seriously. Right now I've been
 16 asking you off the top if I could get some phone numbers to call
 17 my brother in L.A." Williams replied, "I'm trying to get those
 18 phone numbers."

19 The interrogation then began to fall apart. Lawson
 20 continued, "And you're not even, you know what I'm saying? And
 21 I've been 100% with you--" Williams interrupted, "And I've been
 22 with you, too." Lawson continued, "Since this incident I've been
 23 trying to be cool, respectful, everything." Williams
 24 acknowledged, "Correct. I'm trying to work with you." Lawson
 25 replied, "I don't think you were, you weren't working with me.
 26 I'm super cool--" Williams again interrupted, "I'm trying, but
 27 you've got to be honest with me." Lawson replied, "I've been--
 28 Stop. Just stop. I've been, I'm not even, no, no, no. I've been

1 honest with you from the beginning. You know that." Williams
2 replies, "Okay, no problem. I appreciate it. You're not giving
3 me any problems or anything--"

4 Lawson continues, "I don't even want to go into, I don't
5 even want to talk anymore. I'm tired, I'm mad, I don't want- I
6 just want you to send me to Santa Rita and let me get my bail.
7 I'll call my brother so he can fly up here and bail me out.
8 That's all I wanted."

9 Instead of discontinuing the interrogation, Williams then
10 asks, "How much dope was in the trunk?" Lawson says, "I don't
11 know, I'm not asking you--" Williams interrupts, "You don't
12 know?" Lawson replies, "No, I'm not even saying 'I don't know.'
13 I don't want to answer any questions, sir. Seriously."

14 Again, Williams persists. Williams states, "Well, I'm
15 trying to help you out." Lawson retorts, "Trying to help me
16 out?" Williams continues, "And this is the stuff we do--" Lawson
17 begins talking over Williams, "You're not helping me out."
18 Williams then asks, "But you're the owner of the car, right?"
19 Lawson continues, "Helping me out is getting, helping me out of
20 here." Williams replies, "I'm trying. The sooner we get this
21 done, the sooner I can get you to Santa Rita." Lawson says, "All
22 right, well let's go. I don't even got nothing else to say.
23 Honestly, man."

24 However, Williams continues to try to question. He begins
25 to ask, "Well at the scene--" Lawson interrupts him saying,
26 "Look, look. You were cool with me before. Let's leave it at
27 that. Let's leave it. I don't even want to talk. I don't. I
28 don't want to talk. I been telling you, I don't want to talk.

1 We've done enough. I been sitting down here the last hour and a
2 half--" Williams interrupts again, saying "And you can see me.
3 I'm making calls and stuff about your cell phone and car and all
4 that stuff. Fair?" Lawson does not reply.

5 But Williams continues, "So my thing is, if you're, I mean,
6 I'm trying to help you out." Lawson says, "I don't know what you
7 want. How are you helping me out?" Williams says, "Well, you
8 know, it doesn't even matter--" Speaking over him, Lawson says,
9 "How are you helping me out?" Williams continues, "It's a fact,
10 you told me at the scene it was 10 kilos in the trunk. Now I'm
11 just trying to make sure that's exactly, I mean, we haven't
12 weighed it yet." Lawson says, "I'm not talking, I'm not agreeing
13 to none of this. What, you got a microphone or something? You
14 trying, why you trying to get me to say stuff?" Williams lies,
15 "I'm not, I'm just trying to talk to you man to man." Lawson
16 says, "I don't know nothing about that. I don't even want to
17 talk. That's the first thing my lawyer going to tell me. Don't
18 say shit."

19 Nonetheless, Williams then asks, "Okay, you have anything
20 else to add?" Lawson says, "I don't have nothing to add. I don't
21 want to talk, you know." Williams appears to understand this
22 time, and says, "Fine. I'll be back to deal with you. Okay?" The
23 recording ends.

24

ARGUMENT

25 In addition to the previous challenges Defendant has
26 brought to law enforcement's actions in this case, Lawson moves
27 independently to exclude statements obtained from him during
28 custodial interrogations, in violation of Miranda v. Arizona,

1 384 U.S. 436 (1966). The government may not use statements,
2 whether exculpatory or inculpatory, stemming from a custodial
3 interrogation of the defendant unless it can demonstrate the use
4 of the procedural safeguards effective to secure the privilege
5 against self-incrimination. *Id.*, at 444. An accused who is in
6 custody must voluntarily waive his right to remain silent and to
7 the assistance of counsel before any questioning takes place.

8 *Id.*

9 ... [T]he Miranda safeguards come into play whenever a
10 person in custody is subjected to either express
questioning or its functional equivalent....the term
11 'interrogation' under Miranda refers not only to express
questioning, but also to any words or actions on the part
12 of the police (other than those normally attendant to
arrest and custody) that the police should know are
reasonably likely to elicit an incriminating response....
13

14 Rhode Island v. Innis, 446 U.S. 291, 300-302 (1980).

15 Miranda recognized that custodial interrogation presents
such a serious threat to the Fifth Amendment right against self-
16 incrimination that police have a duty to warn suspects of their
17 full panoply of rights regarding interrogation before any
18 custodial interrogation begins. The government must establish
19 compliance with Miranda before the statements can be admitted.
20 See Orozco v. Texas, 394 U.S. 324 (1969).

21 In this case, there are two sets of statements subject to
22 Miranda which Defendant seeks to exclude: (1) statements
23 attributed to him at the scene of the traffic stop and
24 warrantless search; and (2) statements attributed to him while
25 in custody at the Livermore Police Station.

26 The government will not be able to establish compliance in
27 this case, and therefore the statements attributed to Mr. Lawson
28 are inadmissible.

II.

DEFENDANT'S STATEMENTS AT THE SCENE OF THE TRAFFIC MUST BE SUPPRESSED BECAUSE THEY ARE THE RESULT OF A CUSTODIAL INTERROGATION WITHOUT MIRANDA WARNINGS.

In the first instance, Defendant moves to exclude statements attributed to him at the scene of the traffic stop. Miranda broadly requires only that the interrogation be custodial before the advisement applies. In this instance, it is undisputed that Lawson was not advised of his rights at the stop, so the only question is at what point he was in custody.

Generally, a traffic stop is a detention, and does not implicate the greater constitutional protections afforded during an arrest. See Rodriguez v. United States, 135 S.Ct. 1609 (2015), quoting Knowles v. Iowa, 525 U.S. 113, 117 (1998). If the circumstances indicate that a reasonable person in the defendant's position would not feel free to decline the officer's requests or otherwise terminate the encounter, then a detention has occurred. See Florida v. Bostick, 501 U.S. 439, 434 (1991). While police may approach an individual in a public place to elicit voluntary information, any show of official authority such that the citizen's freedom of movement is restrained amounts to a detention for Fourth Amendment analysis. See United States v. Mendenhall, 446 U.S. 544, 553 (1980). Stopping an individual for the purpose of obtaining identification constitutes a seizure of the person within the meaning of the Fourth Amendment. See Brown v. Texas, 443 U.S. 47, 50 (1979).

Undoubtedly, the traffic stop at its inception was a

1 detention by definition. However, "detention for custodial
 2 interrogation--regardless of its label--intrudes so severely on
 3 the interests protected by the Fourth Amendment as necessarily
 4 to trigger the safeguards against illegal arrest." Dunaway v.
 5 New York, 442 U.S. 200, 216 (1979). The length of the detention
 6 can transform a Terry stop into a de facto arrest, requiring
 7 probable cause. See Terry v. Ohio, 392 U.S. 1 (1968); see also
 8 Dunaway, 442 U.S. at 216. "In assessing the effect of the length
 9 of the detention, we take into account whether the police
 10 diligently pursued their investigation." See Florida v. Royer,
 11 460 U.S. 491, 500 (1983). If an investigative stop continues
 12 indefinitely, at some point it can no longer be justified as an
 13 investigative stop. United States v. Sharpe, 470 U.S. 675
 14 (1985).

15 As indicated in Defendant's Motion to Suppress the Evidence
 16 from Unlawful Stop and Prolonged Detention, at p. 10-15, the
 17 traffic stop at issue was unjustifiably transformed into a de
 18 facto arrest when Officer Williams unlawfully prolonged the
 19 detention. Defendant incorporates those arguments herein by
 20 reference.

21 Specifically, even assuming arguendo that Officer Williams
 22 possessed a reasonable suspicion to stop Lawson (he did not),
 23 Officer Williams extended the stop beyond its constitutionally
 24 permissible scope when, after confirming Lawson was not on
 25 probation or parole and after failing to issue a citation for
 26 speeding or "no plates," Officer Williams launched into an
 27 unrelated interrogation. Specifically, Williams interrogated
 28 Lawson on his travels, his employment, his luggage, and his

1 vehicle. Because of the unlawful prolonging of the detention,
 2 this questioning and the statements resulting therefrom are in
 3 violation of Miranda, and must be excluded.

4 After those questions failed to yield incriminating
 5 information, Officer Williams ordered Lawson from the vehicle
 6 and made him sit on the curb while Detective Al Grejada stood
 7 over him. At this point, the fact that Lawson was the subject of
 8 a de facto arrest is all the more apparent because of the
 9 overbearing show of authority and coercive nature of Officer
 10 Williams' and Detective Grejada's actions. Officer Williams then
 11 conducted a warrantless search, rifling through Lawson's
 12 belongings as he watched helplessly, and discovered a large sum
 13 of money and several kilograms of cocaine. Again without
 14 advising Lawson of his rights, Williams queried Lawson about the
 15 cocaine and received incriminating responses. These responses
 16 must also be excluded.

17 The government will no doubt argue, despite any credible
 18 evidence to prove it, that Lawson consented. Lawson adamantly
 19 denies ever having consented. However, even assuming *arguendo*
 20 that he had, any consent would not be voluntary, but rather
 21 "acquiescence to a claim of lawful authority." See Bumper v.
 22 North Carolina (1968) 391 U.S. 543. It must be observed that at
 23 the inception of the stop, in a show of authority, Officer
 24 Williams ordered Lawson to hand over his keys and roll down his
 25 windows. Throughout the stop, Lawson acquiesced to Officer
 26 Williams' authority, despite knowing that he was not speeding
 27 and there was no lawful basis for the stop. Thus, all alleged
 28 statements are the product of duress and coercion.

1 Additionally, even if Lawson had consented, the "consent"
2 would be the tainted fruit of the preceding unlawful detention.
3 For example, consent following an illegal entry, detention,
4 arrest, or frisk is invalid. See Coolidge v. New Hampshire, 403
5 U.S. 443, 468 (1971) (illegal entry vitiates subsequent search
6 or seizure).

7 Therefore, the statements obtained from Lawson at the scene
8 of the traffic stop were obtained in violation of Miranda and
9 must be excluded.

II

11 DEFENDANT'S STATEMENTS TAKEN AT THE STATION
12 MUST BE SUPPRESSED BECAUSE THEY WERE THE
13 PRODUCT OF A COERCIVE IN-CUSTODY
INTERROGATION, AND HE DID NOT WAIVE HIS
RIGHTS.

14 In the second instance, Lawson was interrogated against his
15 will and despite his repeated invocation of his right to remain
16 silent, while in custody at the Livermore Police Station. Thus,
17 the question is not his custodial status, but rather whether his
18 statements were freely given or were involuntarily coerced.
19 *Miranda*, 384 U.S. at 444.

20 Statements obtained from suspects by law enforcement are
21 inadmissible if found to be involuntary. See Schenckloth v.
22 Bustamonte, 412 U.S. 218, 225 (1973). Any statement obtained by
23 police through coercion is considered involuntary, and therefore
24 inadmissible. See Colorado v. Connelly, 479 U.S. 157, 167
25 (1986). Sometimes, an implied waiver can be found where a
26 suspect, having a "full understanding of his or her rights,"
27 thereafter answered the officer's questions. Berghuis v.
28 Thompkins, 130 S.Ct. 2250, 2263 (2010). Nonetheless, saying

1 nothing in response to questions or unambiguously invoking the
 2 Miranda rights will give cause to cease the interrogation.
 3 Berghuis, 130 S. Ct. At 2263.

4 In this instance, Officer Williams read Lawson his Miranda
 5 rights, and asked him for a waiver. Specifically, After reading
 6 Lawson his rights, Williams asked Lawson "Having those rights in
 7 mind, do you wish to talk about that?" When Lawson asked, "Talk
 8 about what?" Williams answered, "Your cell phone and the
 9 incident and all that." Lawson stated, "There's nothing to talk
 10 about."

11 The statement "There's nothing to talk about," in response
 12 to Officer Williams request for a waiver should amount to a
 13 clear and unambiguous invocation of Miranda. Nonetheless,
 14 Officer Williams persisted in asking questions, engaging in a
 15 "softening" tactic of asking innocuous questions about Lawson's
 16 traveling to Los Angeles and work. However, this was not
 17 Lawson's final explicit and unambiguous invocation of his
 18 Miranda rights.

19 After a series of "soft" questions, Lawson invoked again
 20 when Williams began to approach the specifics of the case.
 21 Williams asked, "As far as, talking at the window, you gave me
 22 consent to get into the car." Lawson replied, "Right, I don't
 23 need this. I don't even, I'm not even, right now I'm so pissed
 24 off right now, I don't even feel like going through none of this
 25 right now. You know, seriously. Right now I've been asking you
 26 off the top if I could get some phone numbers to call my brother
 27 in L.A." Even though this response by Lawson was a clear

1 invocation of his rights, Williams persists with investigative
 2 questioning.

3 After a short exchange, Lawson again invokes, stating, "I
 4 don't even want to go into, I don't even want to talk anymore.
 5 I'm tired, I'm mad, I don't want- I just want you to send me to
 6 Santa Rita and let me get my bail. I'll call my brother so he
 7 can fly up here and bail me out. That's all I wanted." Again,
 8 Williams persists.

9 Williams asks, "How much dope was in the trunk?" Lawson
 10 says, "I don't know, I'm not asking you--" Williams interrupts,
 11 "You don't know?" Lawson replies, "No, I'm not even saying 'I
 12 don't know.' I don't want to answer any questions, sir.
 13 Seriously." Despite this fourth explicit and unambiguous
 14 invocation by Lawson, Williams still persists.

15 In fact, the progression of questions cumulatively becomes
 16 more and more coercive as Williams repeatedly ignores Lawson's
 17 invocation of his rights. At one point, Williams coercively
 18 states, "The sooner we get this done, the sooner I can get you
 19 to Santa Rita." Lawson says, "All right, well let's go. I don't
 20 even got nothing else to say. Honestly, man." Thus, a fifth
 21 invocation. Nonetheless, Williams persists.

22 Williams begins to ask, "Well at the scene--" Lawson
 23 interrupts him saying, "Look, look. You were cool with me
 24 before. Let's leave it at that. Let's leave it. I don't even
 25 want to talk. I don't. I don't want to talk. I been telling you,
 26 I don't want to talk. We've done enough. I been sitting down
 27 here the last hour and a half--" Williams interrupts again,
 28 saying "And you can see me. I'm making calls and stuff about

1 your cell phone and car and all that stuff. Fair?" Lawson does
2 not reply. Thus, here, we have a sixth emphatically clear
3 invocation of rights, and then a refusal to answer questions.
4 But that won't stop Officer Williams from continuing to
5 question.

6 Again, Williams attempts coercion, stating, "So my thing
7 is, if you're, I mean, I'm trying to help you out," before
8 getting to his question, "It's a fact, you told me at the scene
9 it was 10 kilos in the trunk. Now I'm just trying to make sure
10 that's exactly, I mean, we haven't weighed it yet." Again,
11 Lawson emphatically invokes, saying, "I'm not talking, I'm not
12 agreeing to none of this. What, you got a microphone or
13 something? You trying, why you trying to get me to say stuff?
14 ... I don't know nothing about that. I don't even want to talk.
15 That's the first thing my lawyer going to tell me. Don't say
16 shit."

17 In total, Defendant invoked his rights seven times, eight
18 counting the instance where he sat in silence in response to
19 Officer Williams' questions. It is hard to fathom where a
20 waiver, express or implied, could be found in this exchange.
21 Certainly, the coercive nature of Officer Williams' overbearing
22 techniques cannot be ignored.

23 Therefore, because Lawson did not waive his rights, and
24 instead emphatically, unambiguously, and repeatedly invoked
25 them, his custodial statements coerced against his will must be
26 excluded.

27 /

28 /

1 CONCLUSION

2 For the aforementioned reasons, Defendant moves this Court
3 to exclude from evidence his statements taken in violation of
4 Miranda.

5 Dated: October 14, 2015

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7
8 /s/ J. TONY SERRA
9 J. TONY SERRA
10 BRIAN GREGORY
11 Attorneys for Defendant
12 LESHAWN LAWSON

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1 CERTIFICATE OF SERVICE
2

3 I , Brian Gregory, hereby certify that I filed the foregoing
4 with the Clerk of the Court for the United States District Court
5 for the Northern District of California by using the CM/ECF
6 system on October 14, 2015.
7

8 I certify that all participants in the case are registered
9 CM/ECF users and that service will be accomplished by the CM/ECF
10 system.
11

12 DATED: October 14, 2015
13

14 */s/ Brian Gregory*
15 BRIAN GREGORY
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